

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

JONATHAN S. ¹ ,)	
)	
Plaintiff,)	
)	
v.)	CIVIL NO. 1:22cv245
)	
KILOLO KIJAKAZI, Acting)	
Commissioner of Social Security,)	
)	
Defendant.)	

OPINION AND ORDER

This matter is before the court for judicial review of a final decision of the defendant Commissioner of Social Security Administration denying Plaintiff's application for Disability Insurance Benefits under Title II of the Social Security Act, and for Supplemental Security Income under Title XVI of the Act. Section 405(g) of the Act provides, inter alia, "[a]s part of his answer, the [Commissioner] shall file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based. The court shall have the power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the [Commissioner], with or without remanding the case for a rehearing." It also provides, "[t]he findings of the [Commissioner] as to any fact, if supported by substantial evidence, shall be conclusive. . . ." 42 U.S.C. §405(g).

The law provides that an applicant for disability benefits must establish an "inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to last for a continuous period of no less than 12 months. . . ." 42 U.S.C. §416(i)(1); 42 U.S.C. §423(d)(1)(A). A physical or mental impairment

¹ For privacy purposes, Plaintiff's full name will not be used in this Order.

is "an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques." 42 U.S.C. §423(d)(3). It is not enough for a plaintiff to establish that an impairment exists. It must be shown that the impairment is severe enough to preclude the plaintiff from engaging in substantial gainful activity. *Gotshaw v. Ribicoff*, 307 F.2d 840 (7th Cir. 1962), cert. denied, 372 U.S. 945 (1963); *Garcia v. Califano*, 463 F.Supp. 1098 (N.D.Ill. 1979). It is well established that the burden of proving entitlement to disability insurance benefits is on the plaintiff. *See Jeralds v. Richardson*, 445 F.2d 36 (7th Cir. 1971); *Kutchman v. Cohen*, 425 F.2d 20 (7th Cir. 1970).

Given the foregoing framework, "[t]he question before [this court] is whether the record as a whole contains substantial evidence to support the [Commissioner's] findings." *Garfield v. Schweiker*, 732 F.2d 605, 607 (7th Cir. 1984) citing *Whitney v. Schweiker*, 695 F.2d 784, 786 (7th Cir. 1982); 42 U.S.C. §405(g). "Substantial evidence is defined as 'more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.'" *Rhoderick v. Heckler*, 737 F.2d 714, 715 (7th Cir. 1984) quoting *Richardson v. Perales*, 402 U.S. 389, 401, 91 S.Ct. 1410, 1427 (1971); *see Allen v. Weinberger*, 552 F.2d 781, 784 (7th Cir. 1977). "If the record contains such support [it] must [be] affirmed, 42 U.S.C. §405(g), unless there has been an error of law." *Garfield, supra* at 607; *see also Schnoll v. Harris*, 636 F.2d 1146, 1150 (7th Cir. 1980).

In the present matter, after a hearing, the Administrative Law Judge ("ALJ") made the following findings:

1. The claimant meets the insured status requirements of the Social Security Act through September 30, 2018.
2. The claimant has not engaged in substantial gainful activity since September 25,

- 2015, the alleged onset date (20 CFR 404.1571 *et seq.*, and 416.971 *et seq.*).
3. The claimant has the following severe impairments: spina bifida, obstructive sleep apnea, asthma, headaches, and obesity (20 CFR 404.1520(c) and 416.920(c)).
 4. The claimant does not have an impairment or combination of impairments that meets or medically equals the severity of one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925 and 416.926).
 5. After careful consideration of the entire record, the undersigned finds the claimant has the residual functional capacity to perform light work as defined in 20 CFR 404.1567(b) and 416.967(b) except the claimant can occasionally climb ramps or stairs, balance, stoop, kneel, crouch, or crawl; but can never climb ladders, ropes, or scaffolds. With occasional exposure to fumes, dusts, odors, gases, and poor ventilation. Work with a moderate level of noise.
 6. The claimant is capable of performing past relevant work as a driver, bicycle repairer, composite position consisting of data entry clerk and counting/tallier, and outside deliverer. This work does not require the performance of work-related activities precluded by the claimant's residual functional capacity (20 CFR 404.1565 and 416.965).

(Tr. 16-24).

Based upon these findings, the ALJ determined that Plaintiff was not entitled to benefits, leading to the present appeal.

Plaintiff filed his opening brief on November 22, 2022. On February 23, 2023 the defendant filed a memorandum in support of the Commissioner's decision to which Plaintiff replied on April 10, 2023. Upon full review of the record in this cause, this court is of the view that the Commissioner's decision should be remanded.

A five step test has been established to determine whether a claimant is disabled. *See Singleton v. Bowen*, 841 F.2d 710, 711 (7th Cir. 1988); *Bowen v. Yuckert*, 107 S.Ct. 2287, 2290-91 (1987). The United States Court of Appeals for the Seventh Circuit has summarized that test as follows:

The following steps are addressed in order: (1) Is the claimant presently unemployed? (2) Is the claimant's impairment "severe"? (3) Does the impairment meet or exceed one of a list of specific impairments? (4) Is the claimant unable to perform his or her former occupation? (5) Is the claimant unable to perform any other work within the economy? An affirmative answer leads either to the next step or, on steps 3 and 5, to a finding that the claimant is disabled. A negative answer at any point, other than step 3, stops the inquiry and leads to a determination that the claimant is not disabled.

Nelson v. Bowen, 855 F.2d 503, 504 n.2 (7th Cir. 1988); *Zalewski v. Heckler*, 760 F.2d 160, 162 n.2 (7th Cir. 1985); accord *Halvorsen v. Heckler*, 743 F.2d 1221 (7th Cir. 1984). In the present case, Step 4 was the determinative inquiry.

In support of remand, Plaintiff first argues that the ALJ failed to properly evaluate his RFC and failed to consider limitations related to his depression and anxiety. Plaintiff notes that he was on medication for his mental disorders and also engaged in six months of therapy to learn how to cope with his mental health issues. (Tr. 926, 2413, 2434, 2797). The ALJ failed to include mental health limitations in the RFC because she was of the apparent belief that Plaintiff did not show any functional limitations that significantly limited his ability to work. (Tr. 19, 23). Plaintiff, however, asserts that multiple medical records, including the state agency consultants' opinions, clearly indicate that Plaintiff has limitations due to his mental health. (Tr. 90-93, 115-21, 2413-18, 2453-62). This Court finds the ALJ's narrow and incomplete analysis of Plaintiff's mental health issues to be unsupported by substantial evidence. Thus remand is required for a more thorough consideration of the medical evidence relating to Plaintiff's mental health.

Plaintiff also argues that the ALJ's conclusion that Plaintiff can perform light work is erroneous. Plaintiff points out that the consultative physicians determined that Plaintiff was only

capable of performing sedentary work. This court agrees with Plaintiff that the ALJ's failure to explain why she rejected the agency doctors' opinions regarding Plaintiff's ability to only perform sedentary work is not supported by substantial evidence. As there is no logical bridge connecting the ALJ's analysis of the evidence to her conclusions, judicial review is thwarted. *Zurawski v. Halter*. 245 F.3d 881, 888 (7th Cir. 2001). Thus, remand is warranted.

Conclusion

On the basis of the foregoing, the Decision of the Commissioner is hereby REVERSED AND REMANDED for further proceedings consistent with this Opinion.

Entered: May 2, 2023.

s/ William C. Lee
William C. Lee, Judge
United States District Court